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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,991	11/21/2003	Neil G. Stockman	33406/US	9112

27076 7590 05/25/2006

DORSEY & WHITNEY LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
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SEATTLE, WA 98101

EXAMINER
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OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/718,991

Applicant(s)

STOCKMAN ET AL.

Examiner

Necholus Ogden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

***Specification***

1. The specification objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o) is withdrawn in view of applicant's amendment.

***Claim Rejections - 35 USC § 102***

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Franz (3,468,096).

Franz discloses a scouring pad comprising layers of non-woven fibrous material (see abstract); wherein the non-woven material comprises synthetic fibers, metallic fibers or various animal or vegetable fibers. Franz teaches that the metallic fibers may comprise steel wool and stainless steel fibers and the synthetic fibers include nylon (col. 2, lines 54-72). Franz further teach that said scouring pad has a washing compound such as soaps that are deposited within the scouring pads (col. 4, lines 49-60).

As this reference teaches all of the instantly required it is considered anticipatory.

3. Claims 1-6 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by McClain (3,451,758).

McClain discloses a scouring pad comprising a nonwoven fibrous material such as synthetic fibers, metallic fibers, or various animal or vegetable fibers and mixtures thereof. McClain teaches that the metallic fibers may comprise steel wool and stainless steel fibers and the synthetic fibers include nylon (col. 2, lines 60-65). McClain further teach that said scouring pad has a washing compound such as soaps and other anionic

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synthetic detergents that are deposited within the scouring pads (col. 4, lines 15-25).

Note, see example 1.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Klein (3,175,331).

Klein discloses a scouring pad comprising layers of non-woven fibrous material (see abstract); wherein the non-woven material comprises synthetic fibers, metallic fibers or various animal or vegetable fibers. Franz teaches that the metallic fibers may comprise steel wool and stainless steel fibers and the synthetic fibers include nylon (col. 1, line 71-col. 2, lines 1-15). Franz further teaches that said scouring pad has a washing compound such as soaps that are deposited within the scouring pads (col. 4, lines 54-60).

As this reference teaches all of the instantly required it is considered anticipatory.

5. Claim 1, 4 and 7 is rejected under 35 U.S.C. 102(b) as being anticipated by McDonell et al et al (5,282,900).

McDonell et al disclose a nonwoven cleansing article comprising organic fibers and dispersed throughout and adhered to the fibers are aluminum-based materials (col. 9, lines 40-68). McDonell et al further teach the inclusion of surfactants (Table 2).

As this reference teaches all of the instantly required it is considered anticipatory.

***Claim Rejections - 35 USC § 103***

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClain (3,451,758).

McClain is relied upon as set forth above. Specifically, McClain does not teach with sufficient specificity to anticipate the claimed natural or synthetic sponge material of claim 8, however, it would have been obvious to the skilled artisan that McClain teaches the use of natural animal or vegetable fibers can broadly be classified as having sponge material. Therefore, it would have been obvious to assume that the organic material of McClain will have the characteristics of sponge material, absent a showing to the contrary.

### ***Response to Arguments***

7. Applicant's arguments filed 3-17-2006 have been fully considered but they are not persuasive.

Applicant argues that Franz and McClain do not disclose or fairly suggest a scrubbing element surrounded by a soap material and in particular, Franz and McClain teach away from such limitations because they teach the scrubbing element substantially surrounds soap material.

The examiner contends and respectfully disagrees because Franz teaches that the washing or detergent composition centrally located within the scouring bar (col. 2 lines 38-40) and McClain teaches that said detergent or washing composition is impregnated into the fibrous layers of the scouring pad (col. 4, lines 15-25). As applicant has not defined the term "substantially", it would have been inherent to the compositions of Franz and McClain to surround the fibrous layers of the scouring bars with detergent compositions largely but not wholly in view of the teaching disclosed therein. Moreover, as the bars become used the detergent compositions will inherently

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surround the fibrous layers entirely due to the foaming properties normally associated with the scouring pads.

Applicant argues that Klein and McDonnell do not fairly suggest or disclose the limitation of scrubbing element consisting essentially of a filamentous network with internal void regions. Specifically, Klein teaches not only fibrous batt, but also abrasive particles applied to the batt. Also, McDonnell includes abrasives particles on the fibers in addition to the nonwoven web.

The examiner contends that additional ingredients are permissible and it appears that additional abrasive particles do not affect the basic and novel characteristics of the invention because said bar appears to be germane to scrubbing and scouring. Moreover, it is held that the transitional phrase "consisting essentially of" limits the scope of a claim to the specified materials or steps "and those that do not materially affect the basic and novel characteristic(s)" of the claimed invention. *In re Herz*, 537 F.2d 549, 551-52, 190 USPQ 461, 463 (CCPA 1976). "A consisting essentially of' claim occupies a middle ground between closed claims that are written in a consisting of' format and fully open claims that are drafted in a comprising' format." *PPG Industries v. Guardian Industries*, 156 F.3d 1351, 1354, 48 USPQ2d 1351, 1353-54 (Fed. Cir.1998). If an applicant contends that additional steps or materials in the prior art are excluded by the recitation of "consisting essentially of," applicant has the burden of showing that the introduction of additional steps or components would materially change the characteristics of applicant's invention. *In re De Lajarte*, 337 F.2d 870, 143 USPQ 256 (CCPA 1964).

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-T, Th-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Nicholas Ogden  
Primary Examiner  
Art Unit 1751

No  
5-23-2006